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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,814	10/05/2001	Hyun-Woo Lee	678-0752	6754
66547 7590 06/11/2009 THE FARRELL LAW FIRM, LLP 290 Broadhollow Road Suite 210E Melville, NY 11747				
EXAMINER				
LY, ANH VU H				
ART UNIT		PAPER NUMBER		
2416				
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06/11/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/972,814

Applicant(s)

LEE ET AL.

Examiner

ANH-VU H. LY

Art Unit

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7,8,11,12,14,15,17,18,21,22,24,25,27 and 38-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7,8,11,12,14,15,17,18,21,22,24,25,27 and 38-41 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This communication is in response to Applicant's amendment filed February 19, 2009. Claims 1, 3-5, 7-8, 11-12, 14-15, 17-18, 21-22, 24-25, 27, and 38-41 are pending.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 5, 7, 18, 21-22, 24-25, and 27 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. *See page 10 of In Re Bilski 88 USPQ2d 1385*. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. Herein, the method claim includes amplifying, generating, and switching steps. However, these steps are not tied to an apparatus. Therefore, it is non-statutory subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole

would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 5, 7-8, 11-12, 14-15, 17-18, 21-22, 24-25, 27, and 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art disclosed in the specification on pages 1-10 and Figs. 1-10 and further in view of Heikkinen (WO 95/32558) and further in view of Lamoureux et al (US Patent No. 6,330,458 B1). Hereinafter, referred to as APA, Heikkinen, and Lamoureux.

With respect to claims 1, 5, 8, 18, 40 and 41, APA discloses a transmission apparatus in a CDMA mobile communication system (Fig. 10) for transmitting a modulated radio signal using a plurality of antennas (Fig. 10, elements ANT1 and ANT2), the transmission apparatus comprising:

a power amplifier for amplifying the modulated radio signal in a transmission period (Fig. 10, element 1026 or 1038);

the sub-frame includes a plurality of time slots, each time slot includes a transmission period followed by a non-transmission period (Figs. 2 and 3); wherein the non-transmission period of a last time slot is a non-transmission period intervening between sub-frames (Figs. 2-4, each sub-frame includes a plurality of time slots, each time slot is separated by a guard period). 4); wherein each time slot comprises two data parts (Fig. 4); a midamble intervening between the data parts (Fig. 4); and a guard period for dividing consecutive time slots (Fig. 4).

APA does not disclose a controller for generating a switching control signal and a switch for switching the amplified radio signal from the power amplifier between a first and a second antenna in response to the switching control signal.

Heikkinen discloses controller (Fig. 3, element 35) for generating a switching control signal associated with the radio signal amplified by the power amplifier (Fig. 3, element 32) and a switch (Fig. 3, element 33) for switching the amplified radio signal from the power amplifier between a first and a second antenna (Fig. 3, elements 34a, 34b, and 34c) in response to the switching control signal.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include generating a control signal for switching radio signal between a first and a second antenna in APA' system, as suggested by Heikkinen, to reduce internally generated heat in each antenna and to promote the endurance of each antenna.

APA discloses that each time slot, including the last time slot, contains a guard period at the end of each the time slot (Fig. 4). APA does not disclose switching occurs in a non-transmission period of a last time slot and at identical periodic intervals.

Lamoureux discloses that the scanning radio continues to monitor each of antenna 302 and 304 during each of the time slots and selects which antenna should be coupled to a radio during a particular time slot, coupling the antenna to the radio during the guard time of the time slot (col. 5, lines 40-45. Herein, each of the time slots includes the last time slot. Further, switching occurs only at guard intervals).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to perform switching during the guard period of the last time slot in the sub-frame in APA's system, as suggested by Lamoureux, to prevent users from hearing any signal disturbance such as noise that can occur during the switching between antennas.

With respect to claims 3 and 7, APA discloses that wherein the non-transmission period of the last time slot has a length of 96 chips (Fig. 1, GP has 96 chips).

With respect to claims 11, APA discloses that wherein the guard period has a length of 96 chips (Fig. 3, GP has a length of 96 chips).

With respect to claims 12 and 22, APA discloses that wherein the guard period is a downlink non-transmission period of a sub-frame (Fig. 3, DwPTS).

With respect to claims 14 and 24, APA discloses that wherein the downlink non-transmission period is 875 usec (page 18, lines 16-18).

With respect to claims 15 and 25, APA discloses that wherein the guard period is an uplink non-transmission period of the sub-frame (Fig. 3).

With respect to claims 17 and 27, APA discloses that wherein the uplink non-transmission period is 825 usec (page 18, lines 21-22).

With respect to claim 21, APA discloses that wherein the guard period has a length of 16 chips (Fig. 4, GP has a length of 16 chips).

With respect to claims 38 and 39, APA discloses a transmission apparatus in a CDMA mobile communication system for transmitting a modulated radio signal using a plurality of antennas (Fig. 7), the transmission apparatus comprising:

- an encoder for encoding data (Fig. 7, element 700);
- an interleaver for interleaving the encoded data (Fig. 7, element 702);
- a demultiplexer for demultiplexing the interleaved data into I channel data and Q channel data (Fig. 7, element 704);
- an I channel spreader for spreading the I channel data (Fig. 7, element 706);
- an I channel scrambler for scrambling the spread I channel data (Fig. 7, element 710);
- a Q channel spreader for spreading the Q channel data (Fig. 7, element 708);
- a Q channel scrambler for scrambling the spread Q channel data (Fig. 7, element 712);
- a time division multiplexer for time multiplexing the spread I channel data with an I channel midamble sequence and multiplexing the spread Q channel data with a Q channel midamble sequence (Fig. 7, element 714 for multiplexing I and Q channel data with I and Q midamble);
- an I channel finite impulse response filter for pulse shaping the multiplexed I channel data (Fig. 7, element 716);
- a Q channel finite impulse response filter for pulse shaping the multiplexed Q channel data (Fig. 7, element 718);
- an I channel multiplier for modulating the pulse shaped I channel data (Fig. 7, element 720);

a Q channel multiplier for modulating the pulse shaped Q channel data (Fig. 7, element 722);

an adder for adding the modulated I channel data and the modulated Q channel data (Fig. 7, element 724);

a power amplifier for amplifying the added I and Q channel data (Fig. 7, element 726);

the sub-frame includes a plurality of time slots, each time slot includes a transmission period followed by a non-transmission period (Figs. 2 and 3); wherein the non-transmission period of a last time slot is a non-transmission period intervening between sub-frames (Figs. 2-4, each sub-frame includes a plurality of time slots, each time slot is separated by a guard period). 4).

APA does not disclose a controller for generating a switching control signal and a switch for switching the amplified I and Q channel data between a first and a second antenna in response to the switching control signal.

Heikkinen discloses controller (Fig. 3, element 35) for generating a switching control signal associated with the radio signal amplified by the power amplifier (Fig. 3, element 32) and a switch (Fig. 3, element 33) for switching the amplified radio signal from the power amplifier between a first and a second antenna (Fig. 3, elements 34a, 34b, and 34c) in response to the switching control signal.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include generating a control signal for switching radio signal between a first and a second antenna in APA' system, as suggested by Heikkinen, to reduce internally generated heat in each antenna and to promote the endurance of each antenna.

APA discloses that each time slot, including the last time slot, contains a guard period at the end of each the time slot (Fig. 4). APA does not disclose switching occurs in a non-transmission period of a last time slot.

Lamoureux discloses that the scanning radio continues to monitor each of antenna 302 and 304 during each of the time slots and selects which antenna should be coupled to a radio during a particular time slot, coupling the antenna to the radio during the guard time of the time slot (col. 5, lines 40-45. Herein, each of the time slots includes the last time slot).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to perform switching during the guard period of the last time slot in the sub-frame in APA's system, as suggested by Lamoureux, to prevent users from hearing any signal disturbance such as noise that can occur during the switching between antennas.

Allowable Subject Matter

4. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments with respect to claims 1, 3-5, 7-8, 11-12, 14-15, 17-18, 21-22, 24-25, 27, and 38 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues in pages 9-10 that Lamoureux discloses its guard times come before each time slot. Examiner respectfully agrees. However, APA discloses that each guard comes after each time slot. Therefore, it would have been obvious to one having ordinary skilled in the

art at the time the invention was made to combine the teachings of APA, Lamoureux, and Heikkinen to perform the switching during the guard period which comes after the time slot to prevent interference.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANH-VU H. LY whose telephone number is (571)272-3175. The examiner can normally be reached on Monday-Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anh-Vu H Ly/
Primary Examiner, Art Unit 2416